

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

PACIFIC TRANS ENVIRONMENTAL
SERVICES, INC.
1452 North Johnson Avenue
El Cajon, CA 92020

ID No. CAD981412356

Respondent.

Docket HWCA 01/02-4008
STIPULATION AND ORDER

Health and Safety Code
Section 25187

The State Department of Toxic Substances Control
(Department) and PACIFIC TRANS ENVIRONMENTAL SERVICES, INC.
(Respondent) enter into this Stipulation and Order (Order) and
agree as follows:

1. A dispute exists regarding the Draft Enforcement Order issued by the Department on December 20, 2002.
2. The parties wish to avoid the expense of further litigation and to ensure prompt action to achieve the Schedule for Compliance below.
3. Jurisdiction exists pursuant to Health and Safety Code section 25187.
4. Respondent waives any right to a hearing in this matter.

5. This Order shall constitute full settlement of the violations alleged in the Enforcement Order, but does not limit the Department from taking appropriate enforcement action concerning other violations.

SCHEDULE FOR COMPLIANCE

6. All alleged violations have been corrected.

7.1. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

7.2. Department Review and Approval: If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may:

a. Modify the document as deemed necessary and approve the document as modified; or

b. Return the document to Respondent with recommended changes and a date by which Respondent must submit

to the Department a revised document incorporating the recommended changes.

7.3. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

7.4. Liability: Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Order. Notwithstanding compliance with the terms of this Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

7.5. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 9.3 in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Order.

7.6. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and

are submitted by Respondent pursuant to this Order are incorporated in this Order upon approval by the Department.

7.7. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

7.8. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

PAYMENTS

8. Within 30 days of the effective date of this Order, Respondent shall pay the Department a total of \$12,000.00, of which \$4,000.00 is a penalty and \$8,000.00 is reimbursement of the Department's costs. Respondent's check shall be made payable to Department of Toxic Substances Control, shall include the Docket Number and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent:

Ramon B. Perez
Senior Staff Counsel

2078 Camino Del Rio South
San Diego, California 92108

Juan M. Jimenez, Chief
Border Unit
Statewide Compliance Division
2078 Camino Del Rio South
San Diego, California 92108

If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

In addition, Respondent agrees to contract for environmental and safety training for employees of Pacific Trans Environmental Services, Inc. and its related company in Mexico, Pacific Treatment Environmental Services, S.A. de C.V., at a cost of \$4,000.00. Attendance must be completed, and Respondent must submit a certificate of completion to DTSC within 185 days of the effective date of this order. If Respondent fails to submit the certificate as required, an additional penalty of \$8,000.00 will due and payable within 30 days after the expiration of the 185 day period. The 185 day period may be extended by the DTSC Branch Chief or his/her designee, upon receiving written request demonstrating good cause.

OTHER PROVISIONS

9.1. Additional Enforcement Actions: By agreeing to this Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Order.

9.2. Penalties for Noncompliance: Failure to comply with the terms of this Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

9.3 Parties Bound: This Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

9.4. Effective Date: The effective date of this Order is the date it is signed by the Department.

9.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

9.6. Compliance with Waste Discharge Requirements:

Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board.

Dated: 7/12/03

/original signed by/
Yale Coombs
Respondent

Dated: 7/31/03

/original signed by/
Nennet V. Alvarez, Chief
Cypress Branch
Statewide Compliance Division
Department of
Toxic Substances Control